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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,729	06/08/2001	Franz Wakefield	4551.002	8957

7590 10/06/2004

COOLTV NETWORK.COM, INC.

17731 Northwest 14th Court

Miami, FL 33169

EXAMINER

PESIN, BORIS M

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/877,729

Applicant(s)WAKEFIELD, FRANZ **Examiner**

Boris Pesin

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This communication is responsive to an amendment filed 06/21/2004.

Claims 1-20 are pending in this application. Claims 1 and 20 are independent claims. In the amendment filed 06/21/2004, claims 8 and 9 were amended. This action is made Final.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 5, 6, 8, 11-15, 19, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Horowitz et al. ("Horowitz," US006122647A).

As per independent claim 1, Horowitz teaches a multifunctional hot spot apparatus comprising a set of processed or readable instructions storable on a retaining medium (column 5, lines 25-33); at least one hot spot defined by any communication with said instructions, and having a means for performing at least one of a plurality of predetermined functions, to said hot spots being accessible from a globally accessible

Art Unit: 2174

network (column 7, lines 27-32); means, defined by said instructions, for selecting and activating at least one of said predetermined functions (column 7, lines 27-32).

As per claim 2, which is dependent on claim 1, Horowitz teaches a means for identifying said hot spots (column 7, lines 19-22).

As per claim 5, which is dependent on claim 1, Horowitz teaches a means for linking to at least one predetermine URL address when said hot spot is activated (column 6, lines 21-27).

As per claim 6, which is dependent on claim 1, Horowitz teaches a means for storing and retrieving digital media, said digital media having at least one said hot spot defined therein (column 6, lines 12-18).

As per claim 8, which is dependent on claim 1, Horowitz teaches a means for accessing and activating digital media when said hot spot is activated (column 6, lines 12-18).

As per claim 11, which is dependent on claim 1, Horowitz teaches that hot spots reside on and are accessible from a digital video file (column 6, lines 12-18 and column 6, lines 35-41).

As per claim 12, which is dependent on claim 1, Horowitz teaches that hot spot resides in and is accessible from an audio digital file (column 6, lines 12-18 and column 6, lines 35-41).

As per claim 13, which is dependent on claim 1, Horowitz teaches that hot spot resides in and is accessible from a digital media file (column 6, lines 12-18 and column 6, lines 35-41).

As per claim 14, which is dependent on claim 1, Horowitz teaches that the means for selecting and activating comprises: a menu of identifiers in communication with said functions for identifying and providing access to said functions (column 7, lines 49-53); said identifiers each corresponding to and being in communication with at least one of said predetermined functions, said identifiers having a means for activating a function when a corresponding identifier is activated (column 7, lines 44-53).

As per claim 15, which is dependent on claim 1, Horowitz teaches at least one globally accessible address that is accessible through a globally accessible network when said corresponding identifier is selected (column 6, lines 21-27).

As per claim 19, which is dependent on claim 1, Horowitz teaches a means for adding at least one additional function to a predetermined hot spot (column 7, lines 40-44).

As per independent claim 20, Horowitz teaches a software apparatus for use on a globally accessible website, comprising:

A set of processed readable instructions stored on a tangible medium for creating and controlling at least one pre-identified hot spot, said hot spot having a plurality of predetermined functions (column 7, lines 27-32); said functions dictating the action taken by said hot spots when activated, said functions having means for accessing predetermined locations that are accessible from a globally accessible network (column 6, lines 21-27); means for selecting and activating at least one function from said plurality of functions based on predetermined parameters, at least one of said predetermined parameters comprising a user originated input that selects and activates

Art Unit: 2174

at least one function from said plurality of functions when said hot spot is activated (column 7, lines 44-53).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horowitz et al. ("Horowitz," US006122647A) in further view of Hunt et al. ("Hunt," US005893091A).

As per claim 3, which is dependent on claim 1, the teachings of Horowitz in regards to claim 1 have been discussed above. Horowitz does not disclose a means for identifying items available on a website for purchase.

Hunt teaches a means for identifying items available on a website for purchase (column 6, lines 31-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Horowitz with a means to identify items available for purchase on a website, as taught by Hunt, with the motivation to alert the user to a sale item and to allow the user to find out more about a product (column 6, lines 37-38).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horowitz et al. ("Horowitz," US006122647A) in further view of Ausubel (US006021398A).

As per claim 4, which is dependent on claim 1, the teachings of Horowitz in regards to claim 1 have been discussed above. Horowitz does not disclose a means for conducting an auction and receiving bids for the purchase of identified items.

Ausubel teaches a means for conducting an auction and receiving bids for the purchase of identified items (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Horowitz to include a means to conduct an auction and receive bids, as taught by Ausubel, with the motivation to allow users to engage in auction activity more efficiently (column 5, lines 26-30).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horowitz et al. ("Horowitz," US006122647A) in further view of Dekelbaum et al. ("Dekelbaum," US005838682A).

As per claim 7, which is dependent on claim 1, the teachings of Horowitz in regards to claim 1 have been discussed above. Horowitz does not disclose a means for calling a predetermined phone number when said hot spot is activated.

Dekelbaum teaches a means for calling a predetermined phone number when said hot spot is activated (column 12, lines 1-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Horowitz with a means to call a phone number when a hotspot (*i.e. hyperlink*) is activated, as taught by Dekelbaum, with the motivation to automatically initiate connectivity with an individual over a telephone network in order to receive help from or communicate with other parties (column 5, lines 10-14).

Claims 9, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horowitz et al. ("Horowitz," US006122647A) in further view of Efrat et al. ("Efrat,"US006570587B1).

As per claim 9, which is dependent on claim 1, the teachings of Horowitz in regards to claim 1 have been discussed above. Horowitz does not disclose a means for communicating a website to a user with a digital media file having at least one said hot spot.

Efrat teaches a means for communicating a website to a user with a digital media file having at least one said hot spot (column 5, lines 25-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Horowitz with a means to communicate a website to a user, as taught by Efrat, with the motivation to allow users to activate hotspots that communicate websites in digital media (column 2, lines 15-18).

As per claim 16, which is dependent on claim 1, the teachings of Horowitz in regards to claim 1 have been discussed above. Horowitz does not disclose at least one predetermined parameter that activates a corresponding function from said plurality of functions when said parameter is satisfied.

Efrat teaches that at least one predetermined parameter that activates a corresponding function from said plurality of functions when said parameter is satisfied (column 27, lines 12-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Horowitz with a means to activate a plurality of functions when a parameter is met, as taught by Efrat, with the

Art Unit: 2174

motivation to allow the application to initiate certain actions without user input (column 26, lines 12-14).

As per claim 17, which is dependent on claim 16, Efrat teaches that at least one predetermined parameter comprises the reaching of a predetermined segment of a digital media file (column 27, lines 33-45).

As per claim 18, which is dependent on claim 17, Efrat teaches a means for overwriting said parameter when a user selects at least one of said plurality of predetermined functions (column 26, lines 12-15, *user can activate hotspots prior to a programmatic actuation and thereby effectively overwrite the programmatic action by preventing it from ever occurring*).

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horowitz et al. ("Horowitz," US006122647A) in further view of Krasle (US006029135A).

As per claim 10, which is dependent on claim 1, the teachings of Horowitz in regards to claim 1 have been discussed above. Horowitz does not disclose a voice recognition means for activating at least one of said predetermined functions based on the sound of the user's voice.

Krasle teaches a voice recognition means for activating at least one of said predetermined functions based on the sound of the user's voice (column 2, lines 27-30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Horowitz with a means to activate a function based on a user's voice, as taught by Krasle, with the motivation to allow a user to engage in hands-free navigation of a linked document (columns 1-2, lines 66-2).

Response to Amendment

The affidavit filed on 5/10/2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Horowitz et al. (US 6122647) reference.

Conception

1. The MPEP 715.07 (3rd Paragraph)

The affidavit or declaration must state FACTS and produce such documentary evidence and exhibits in support thereof as are available to show conception and completion of invention in this country or in a NAFTA or WTO member country (MPEP § 715.07(c)), at least the conception being at a date prior to the effective date of the reference. Where there has not been reduction to practice prior to the date of the reference, the applicant or patent owner must also show diligence in the completion of his or her invention from a time just prior to the date of the reference continuously up to the date of an actual reduction to practice or up to the date of filing his or her application (filing constitutes a constructive reduction to practice, 37 CFR 1.131). As discussed above, 37 CFR 1.131(b) provides three ways in which an applicant can establish prior invention of the claimed subject matter. The showing of facts must be sufficient to show:

- (A) reduction to practice of the invention prior to the effective date of the reference; or
- (B) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to practice; or
- (C) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice).

2. The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Horowitz et al. reference. While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

Art Unit: 2174

3. It appears to the Examiner that the Applicant is trying to establish either (B) or (C) from the above-cited paragraph. However, the applicant does not provide any factual evidence or exhibits in regards to the date of conception. The applicant is merely stating a narrative of how he came up with the invention but does not provide the Examiner with any factual exhibits that would solidify the applicant's statements.

Diligence

1. The MPEP 715.07 (3rd Paragraph)

A conception of an invention, though evidenced by disclosure, drawings, and even a model, is not a complete invention under the patent laws, and confers no rights on an inventor, and has no effect on a subsequently granted patent to another, UNLESS THE INVENTOR FOLLOWS IT WITH REASONABLE DILIGENCE BY SOME OTHER ACT, such as an actual reduction to practice or filing an application for a patent. Automatic Weighing Mach. Co. v. Pneumatic Scale Corp., 166 F.2d 288, 1909 C.D. 498, 139 O.G. 991 (1st Cir. 1909).

2. The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Horowitz et al. reference to either a constructive reduction to practice or an actual reduction to practice.

3. The applicant states that he came up with the conception of the CLICKVIDEOSHOP software in 1996 and reduced it to practice (i.e. created a prototype) in October 1999. The Examiner advises the applicant that even if the date of the conception was to be determined to be October 1996, applicant must still show diligence from just prior to Horowitz et al. (May 19, 1998) to up until the alleged RTP.

Reduce to Practice (RTP)

1. The MPEP 715.07 (3rd Paragraph)

In general, proof of actual reduction to practice requires a showing that the apparatus actually existed and worked for its intended purpose. However, "there are some devices so simple that a mere construction of them is all that is necessary to constitute reduction to practice." In re Asahi /America Inc., **>68 F.3d 442, 37 USPQ2d 1204, 1206< (Fed. Cir. 1995) (Citing Newkirk v. *>Lulejian<, 825 F.2d 1581, 3USPQ2d 1793 (Fed. Cir. 1987) and Sachs v. Wadsworth, 48 F.2d 928, 929, 9 USPQ 252, 253 (CCPA 1931). The claimed restraint coupling held to be so simple a device that mere construction of it was sufficient to constitute reduction to practice. Photographs, coupled with articles and a technical report describing the coupling in detail were sufficient to show reduction to practice.).

2. The Examiner would like to point out even if the date of conception was to be determined to be October 1996, and the Applicant submitted valid evidence and/or exhibits showing diligence, the applicant must still show factual proof of actual reduction to practice. So far, at best, the applicant has shown a constructive reduction to practice by filing the application. A simple statement about when a prototype was created, as per page 3, of the affidavit, will not warrant as sufficient factual evidence, nor proof of the actual reduction to practice date.

Because the inventor is a pro-se applicant, the Examiner will provide several excerpts from the MPEP to further assist the applicant in the prosecution of this case.

The following block of text is the section 715.07 of the MPEP that states that the affidavit must be based on facts (i.e. evidence) and cannot be based solely on the applicant's own statement.

The essential thing to be shown under 37 CFR 1.131 is priority of invention and this may be done by any satisfactory evidence of the fact. FACTS, not conclusions, must be alleged. Evidence in the form of exhibits may accompany the affidavit or declaration. Each exhibit relied upon should be specifically referred to in the affidavit or declaration, in terms of what it is relied upon to show. For example, the allegations of fact might be supported by submitting as evidence one or more of the following:

- (A) attached sketches;
- (B) attached blueprints;
- (C) attached photographs;
- (D) attached reproductions of notebook entries;
- (E) an accompanying model;
- (F) attached supporting statements by witnesses, where verbal disclosures are the evidence relied upon. *Ex parte Ovshinsky*, 10 USPQ2d 1075 (Bd. Pat. App. & Inter. 1989);

(G) testimony given in an interference. Where interference testimony is used, the applicant must point out which parts of the testimony are being relied on; examiners cannot be expected to search the entire interference record for the evidence. *Ex parte Homan*, 1905 C.D. 288 (Comm'r Pat. 1905);

(H) Disclosure documents (MPEP § 1706) may be used as documentary evidence of conception.

Exhibits and models must comply with the requirements of 37 CFR 1.91 to be entered into an application file. See also MPEP § 715.07(d).

A general allegation that the invention was completed prior to the date of the reference is not sufficient. *Ex parte Saunders*, 1883 C.D. 23, 23 O.G. 1224 (Comm'r Pat. 1883). Similarly, a declaration by the inventor to the effect that his or her invention was conceived or reduced to practice prior to the reference date, without a statement of facts demonstrating the correctness of this conclusion, is insufficient to satisfy 37 CFR 1.131.

37 CFR 1.131(b) requires that original exhibits of drawings or records, or photocopies thereof, accompany and form part of the affidavit or declaration or their absence satisfactorily explained. In *Ex parte Donovan*, 1890 C.D. 109, 52 O.G. 309 (Comm'r Pat. 1890) the court stated

If the applicant made sketches he should so state, and produce and describe them; if the sketches were made and lost, and their contents remembered, they should be reproduced and furnished in place of the originals. The same course should be pursued if the disclosure was by means of models. If neither sketches nor models are relied upon, but it is claimed that verbal disclosures, sufficiently clear to indicate definite conception of the invention, were made the witness should state as nearly as possible the language used in imparting knowledge of the invention to others.

Art Unit: 2174

The following is an excerpt from the MPEP 715.07 (a) stating that the applicant must prove diligence from conception to reduction to practice.

Where conception occurs prior to the date of the reference, but reduction to practice is afterward, it is not enough merely to allege that applicant or patent owner had been diligent. *Ex parte Hunter*, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat. 1889). Rather, applicant must show evidence of facts establishing diligence.

In determining the sufficiency of a 37 CFR 1.131 affidavit or declaration, diligence need not be considered unless conception of the invention prior to the effective date is clearly established, since diligence comes into question only after prior conception is established. *Ex parte Kantor*, 177 USPQ 455 (Bd. App. 1958).

What is meant by diligence is brought out in *Christie v. Seybold*, 1893 C.D. 515, 64 O.G. 1650 (6th Cir. 1893). In patent law, an inventor is either diligent at a given time or he is not diligent; there are no degrees of diligence. An applicant may be diligent within the meaning of the patent law when he or she is doing nothing, if his or her lack of activity is excused. Note, however, that the record must set forth an explanation or excuse for the inactivity; the USPTO

Under 37 CFR 1.131, the critical period in which diligence must be shown begins just prior to the effective date of the reference or activity and ends with the date of a reduction to practice, either actual or constructive (i.e., filing a United States patent application). Note, therefore, that only diligence before reduction to practice is a material consideration. The "lapse of time between the completion or reduction to practice of an invention and the filing of an application thereon" is not relevant to an affidavit or declaration under 37 CFR 1.131. See *Ex parte Merz*, 75 USPQ 296 (Bd. App. 1947).

The following is an excerpt from the MPEP 715.07 (3rd paragraph) that discusses how an applicant would can establish prior invention of the claimed subject matter.

As discussed above, 37 CFR 1.131(b) provides three ways in which an applicant can establish prior invention of the claimed subject matter. The showing of facts must be sufficient to show:

(A) reduction to practice of the invention prior to the effective date of the reference; or

(B) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to practice; or

(C) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice).

A conception of an invention, though evidenced by disclosure, drawings, and even a model, is not a complete invention under the patent laws, and confers no rights on an inventor, and has no effect on a subsequently granted patent to another, UNLESS THE INVENTOR FOLLOWS IT WITH REASONABLE DILIGENCE BY SOME OTHER ACT, such as an actual reduction to practice or filing an application for a patent. *Automatic Weighing Mach. Co. v. Pneumatic Scale Corp.*, 166 F.2d 288, 1909 C.D. 498, 139 O.G. 991 (1st Cir. 1909).

Conception is the mental part of the inventive act, but it must be capable of proof, as by drawings, complete disclosure to another person, etc. In *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897), it was established that conception is more than a mere vague idea of how to solve a problem; the means themselves and their interaction must be comprehended also.

The following is excerpt from MPEP (2138.06) further stating that ALL periods between conception and reduction to practice must be accounted for.

THE ENTIRE PERIOD DURING WHICH DILIGENCE IS REQUIRED MUST BE ACCOUNTED FOR BY EITHER AFFIRMATIVE ACTS OR ACCEPTABLE EXCUSES

An applicant must account for the entire period during which diligence is required. *Gould v. Shawlow*, 363 F.2d 908, 919, 150 USPQ 634, 643 (CCPA 1966) (Merely stating that there were no weeks or months that the invention was not worked on is not enough.); *In re Harry*, 333 F.2d 920, 923, 142 USPQ 164, 166 (CCPA 1964) (statement that the subject matter "was diligently reduced to practice" is not a showing but a mere pleading). A 2-day period lacking activity has been held to be fatal. *In re Mulder*, 716 F.2d 1542, 1545, 219 USPQ 189, 193 (Fed. Cir. 1983) (37 CFR 1.131 issue); *Fitzgerald v. Arbib*, 268 F.2d 763, 766, 122 USPQ 530, 532 (CCPA 1959) (Less than 1 month of inactivity during critical period. Efforts to exploit an invention commercially do not constitute diligence in reducing it to practice. An actual reduction to practice in the case of a design for a three-dimensional article requires that it should be embodied in some structure other than a mere drawing.); *Kendall v. Searles*, 173 F.2d 986, 993, 81 USPO 363, 369 (CCPA 1949) (Diligence requires that applicants must be specific as to dates and facts.).

The MPEP excerpts included in this Office action are by no means a full and comprehensive guide to affidavit practice. They should only serve to direct and assist the applicant in further prosecuting the case.

An examination of this application reveals that applicant is unfamiliar with affidavit practice. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon

Art Unit: 2174

skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boris Pesin whose telephone number is (703) 305-8774. The examiner can normally be reached on Monday-Friday except every other Friday.

Art Unit: 2174

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on (703) 308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristine Kincaid
KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100